

Exhibit A

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

WILLIAM E. KAY, SR.

Plaintiff,

V.

CYPRESS-FAIRBANKS
INDEPENDENT SCHOOL DISTRICT

Defendant.

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Civil Action No. _____

INDEX OF EXHIBITS

Exhibit	Description
1	Plaintiff's Original Petition (June 26, 2017)
2	Service of Process (January 23, 2018)
3	Defendant's Original Answer (February 22, 2018)
4	Docket Sheet in Cause No. 2017-42311
5	List of Parties and Counsel

EXHIBIT 1

6/26/2017 10:19 AM
Chris Daniel - District Clerk Harris County
Envelope No. 17828151
By: Nelson Cuero
Filed: 6/26/2017 10:19 AM

2017-42311 / Court: 215

No.

WILLIAM E. KAY, SR.

IN THE DISTRICT COURT

v.

HARRIS COUNTY, TEXAS

CY-FAIR INDEPENDENT
SCHOOL DISTRICT

_____th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THE COURT:

William E. Kay, Sr., plaintiff, files this his original petition complaining of Cy-Fair Independent School District, defendant, (hereinafter at times called "Cy-Fair" or "defendant") and for cause of action shows the Court the following:

1. Discovery is intended to be conducted under Level 2 of Rule 190.1, Texas Rules of Civil Procedure.

2. Plaintiff is an individual residing in Houston, Harris County, Texas. His date of birth is August 25, 1936. At all times relevant to this action, plaintiff was over the age of 40. Defendant, is an independent school district with its principal place of business in Harris County, Texas. It may be served with citation by serving defendant's registered agent. At all times relevant hereto, defendant had in excess of twenty employees and was plaintiff's employer. At all times relevant hereto, defendant's principal place of business was located in Harris County, Texas. Plaintiff and defendant entered into verbal and written agreements concerning his employment with defendant, which were entered into and performed in Harris County, Texas.

3. Venue is proper in Harris County, Texas, because an agreement concerning employment between plaintiff and defendant

was entered into in Harris County, Texas, and the actions by defendant of which plaintiff complains occurred in Harris County, Texas.

4. This court has jurisdiction under Texas Labor Code Ann. Section 21.001 et seq. All administrative remedies have been exhausted, including the timely filing of charges of discrimination with the Texas Commission on Civil Rights and the Equal Employment Opportunity Commission.

5. At all times relevant to this action plaintiff was a part time employee of defendant. Plaintiff was capable of performing and did perform the duties of his position. After performing his duties capably and effectively for many years, defendant intentionally commenced and carried out a course of conduct which was intended to force plaintiff from his employment with it. Plaintiff's claims are based, without limitation, upon the following described actions by defendant:

a. Defendant intentionally subjected plaintiff to abusive, hazardous and unhealthy working conditions by requiring plaintiff to perform his required work duties under a supervisor or supervisors who repeatedly subjected him to outrageous and offensive or discriminatory verbal abuse in and around the area where he performed his job duties.

b. Defendant intentionally subjected plaintiff to abusive, hazardous and unhealthy working conditions by requiring plaintiff to perform his required work duties under circumstances where he was subjected to intolerable working conditions in and around the area where he performed his job duties.

c. Defendant intentionally subjected plaintiff to abusive, hazardous and unhealthy working conditions by requiring plaintiff to perform his required work duties under circumstances where he was subjected to unwanted and uninvited interference with his work duties.

d. Defendant intentionally subjected plaintiff to abusive, hazardous and unhealthy working conditions by requiring plaintiff to perform his required work duties under circumstances and under a supervisor who uttered maliciously and belittling statements to him.

All the above actions were taken or operated to discriminate against plaintiff on account of his age in violation of the Age Discrimination in Employment Act and comparable provisions of the Texas Labor Code.

6. Defendant's unlawful conduct has proximately caused plaintiff actual damages, including loss of earnings and earning capacity and employment benefits, and mental anguish in the past which is reasonably expected to extend into the future, all in an amount within the jurisdictional limits of the court, or alternatively not less than \$300,000.00.

7. The wrong done by defendant was the kind typified by willfulness, wantonness, and malice for which the law allows the imposition of exemplary damages. Defendant's conduct was intentional or with conscious indifference to the rights of plaintiff and without justification or excuse. Because of the willfulness and recklessness of defendant's actions plaintiff is entitled to recover exemplary damages in an amount within the

jurisdictional limits of the court or alternatively as set forth above.

8. Plaintiff alleges that defendant's actions toward him were pretextual and, that defendant's action were taken to deliberately and willfully force plaintiff from his job on account of his age, in violation of the Age Discrimination in Employment Act and comparable provisions of the Texas Labor Code.

9. Plaintiff has been required to retain counsel and seeks his reasonable attorneys' fees.

PRAYER

Wherefore, plaintiff requests that defendant be cited to appear and answer and that on final trial he have the following:

1. Judgment against defendant for damages in an amount within the jurisdictional limits of the court, or alternatively as set forth above.
2. An award of exemplary damages against defendant in a sum within the jurisdictional limits of the court or alternatively as set forth above.
3. Interest prior to judgment from date due to date of judgment at the maximum rate prescribed by law.
4. His costs and reasonable attorneys' fees.
5. Interest after judgment at the maximum lawful rate on all the above sums from date of judgment until paid.
6. Such other and further relief to which he may be justly entitled.

Plaintiff demands a trial by jury.

Respectfully submitted,

Law Office of Woodrow
Epperson


Woodrow Epperson

336 Rim Rock Road
Kerrville, Texas 78028
(713) 973-6303
fax 830 895-3882
State Bar No. 06637000
jepper1068@aol.com

Attorney for
William E. Kay, Sr.

EXHIBIT 2

CAUSE NO. 201742311

RECEIPT NO.

0.00

CIV

TR # 73452863

PLAINTIFF: KAY, WILLIAM F (SR)

vs.

DEFENDANT: CY-FAIR INDEPENDENT SCHOOL DISTRICT

In The 215th
Judicial District Court
of Harris County, Texas
215TH DISTRICT COURT
Houston, TX

CITATION

THE STATE OF TEXAS
County of HarrisTO: CY-FAIR INDEPENDENT SCHOOL DISTRICT BY SERVING THE SUPERINTENDENT
MARK HENRY

10300 JONES ROAD HOUSTON TX 77065

Attached is a copy of PLAINTIFF'S ORIGINAL PETITIONThis instrument was filed on the 26th day of June, 2017, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 18th day of January, 2018, under my hand and seal of said Court.

Issued at request of:

EPPERSON, WOODROW JR.

520 CADE LOOP

INGRAM, TX 78025

Tel: (713) 973-6303

Bar No.: 6637000



Chris Daniel

CHRIS DANIEL, District Clerk

Harris County, Texas

201 Caroline, Houston, Texas 77002

(P.O. Box 4651, Houston, Texas 77210)

Generated By: LEMON, JUSTINA VERNELL

EGZ//10860632

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock ____ M., on the ____ day of _____, ____.

Executed at (address) _____ in

_____ County at _____ o'clock ____ M., on the ____ day of _____,

_____, by delivering to _____ defendant, in person, a

true copy of this Citation together with the accompanying _____ copy(ies) of the Petition

attached thereto and I endorsed on said _____ of the Citation the date of delivery.

To certify which I affix my hand and seal this _____ day of _____, ____.

FEE: \$ _____

SEE ATTACHED**
***** AFFIDAVIT *****

_____ of _____ County, Texas

By _____

Affiant

Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____, ____.

Notary Public

CAUSE NO. 201742311

WILLIAM F. KAY, SR.

Plaintiff(s),

VS.

CY-FAIR INDEPENDENT SCHOOL
DISTRICT

Defendant(s).

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IN THE DISTRICT COURT

215TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

RETURN OF SERVICE

Came to hand on **Friday, January 19, 2018 at 10:45 AM,**
 Executed at: **10300 JONES ROAD, HOUSTON, TX 77065**
 within the county of **HARRIS** on **Tuesday, January 23, 2018,**
 by delivering to the within named:

CY-FAIR INDEPENDENT SCHOOL DISTRICT

By delivering to its **Superintendent of Schools, MARK HENRY,** by Certified Mail Return Receipt
 Requested, a true copy of this

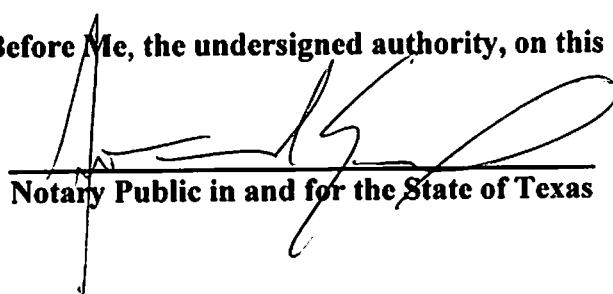
CITATION and PLAINTIFF'S ORIGINAL PETITION

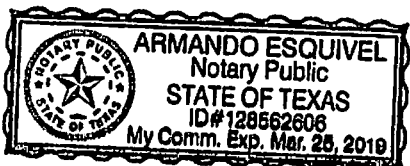
PS Form 3811, signed by **ANTHEUS C. WHITE,** Authorized Agent of the Defendant, is attached to
 this form as proof of delivery.

BEFORE ME, the undersigned authority, on this day personally appeared **Charity N. Coleman** who
 after being duly sworn on oath states: "My name is **Charity N. Coleman.** I am a person over eighteen
 (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I have
 personal knowledge of the facts and statements contained in this affidavit and aver that each is true and
 correct. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the
 outcome of the suit. I am familiar with the Texas Rules of Civil Procedure, and the Texas Practice and
 Remedies Codes as they apply to service of process. I have never been convicted of a felony or of a
 misdemeanor involving moral turpitude."

Charity N. ColemanOf: Dallas CountyBy: Charity N. ColemanAuthorized Person - PSC2761 - Exp 06/30/19

Subscribed and Sworn to by **Charity N. Coleman,** Before Me, the undersigned authority, on this
26th day of **January, 2018.**


 Notary Public in and for the State of Texas



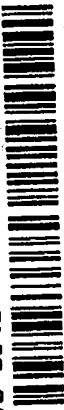
SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

CY-FAIR INDEPENDENT SCHOOL
DISTRICT
C/O MARK HENRY

10300 JONES ROAD
HOUSTON TX 77065



9590 9401 0165 5234 3650 98

7017 2680 0000 9294 7927

PS Form 3811, July 2015 PSN 7530-02-000-9053

0190225

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) Anthony S. Williams Date of Delivery 5-1-2018
- C. Is delivery address different from item 1? ☐ Yes ☒ No
- D. If YES, enter delivery address below:

3. Service Type

- ☐ Adult Signature ☐ Registered Mail Express[®]
- ☐ Adult Signature Restricted Delivery ☐ Registered Mail Restricted Delivery
- ☒ Certified Mail[®] ☒ Return Receipt for Merchandise
- ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation[™]
- ☐ Collect on Delivery, Restricted Delivery ☐ Signature Confirmation[™]
- ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Restricted Delivery

Domestic Return Receipt

Unofficial Copy

EXHIBIT 3

CAUSE NO. 2017-42311**WILLIAM E. KAY, SR.**
Plaintiff

v.

**CY-FAIR INDEPENDENT
SCHOOL DISTRICT**
Defendant§
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§**IN THE DISTRICT COURT OF****HARRIS COUNTY, TEXAS****215TH JUDICIAL DISTRICT****DEFENDANT CYPRESS-FAIRBANKS INDEPENDENT SCHOOL DISTRICT'S
ORIGINAL ANSWER AND DEFENSES**

TO THE HONORABLE JUDGE OF THE COURT:

Defendant Cypress-Fairbanks Independent School District ("Cy-Fair ISD", "District" or "Defendant"), files its Original Answer and Defenses, and would respectfully show the Court as follows:

**I.
GENERAL DENIAL**

Cy-Fair ISD asserts this general denial pursuant to Texas Rule of Civil Procedure 92. Cy-Fair ISD denies each and every, all and singular, the material allegations made in the Plaintiff's Original Petition and requests this Court to require strict proof of all such material allegations, as is required by Texas law.

**II.
AFFIRMATIVE DEFENSES**

In asserting the following defenses, Cy-Fair ISD does not admit that the burden of proving the allegations or denials contained in the defenses is upon it, but, to the contrary, asserts that the burden of proving the facts relevant to many of the defenses and the burden of proving the inverse of the allegations contained in many of the defenses is upon the Plaintiff. Moreover,

by asserting any defense, Cy-Fair ISD does not admit any liability, but, to the contrary, specifically denies any and all allegations of liability in the Plaintiff's lawsuit. Without admitting liability as to any of the Plaintiff's causes of action, Cy-Fair ISD asserts the following defenses:

1. Cy-Fair ISD affirmatively pleads the defense of governmental immunity from suit and liability.
2. Cy-Fair ISD affirmatively asserts that Plaintiff's own acts or omissions caused or contributed to the Plaintiff's injuries (if any).
3. Cy-Fair ISD affirmatively asserts that Plaintiff's damages, if any, should be limited to the extent he has failed to mitigate his damages.
4. Cy-Fair ISD affirmatively asserts that it is entitled to an offset of any damages based on income or moneys received since the separation of Plaintiff's employment.
5. Cy-Fair ISD affirmatively asserts that Plaintiff has failed to properly exhaust his administrative remedies.
6. Cy-Fair ISD affirmatively asserts that Plaintiff's claims are barred by any other defense that constitutes an avoidance or affirmative defense.

III. PRAYER

For these reasons, Defendant Cypress-Fairbanks Independent School District asks that if this case is tried on the merits, this Court will issue a judgment that provides that the Plaintiff take nothing, assesses court costs against the Plaintiff, and awards Cy-Fair ISD its attorneys' fees. Defendant Cy-Fair ISD additionally requests all other relief to which it is entitled, at law or in equity.

Respectfully submitted,

THOMPSON & HORTON LLP



By: _____

Christopher B. Gilbert
State Bar No. 00787535
Stephanie A. Hamm
State Bar No. 24069841

3200 Southwest Freeway, Suite 2000
Houston, Texas 77027
(713) 583-6744 – Telephone
(713) 583-7698 – Facsimile
cgilbert@thompsonhorton.com

**ATTORNEYS FOR DEFENDANT
CYPRESS-FAIRBANKS INDEPENDENT
SCHOOL DISTRICT**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served on all counsel of record by fax or by electronic service, on February 22, 2018, at the following address:

Woodrow Epperson
Law Office of Woodrow Epperson
336 Rim Rock Road
Kerrville, TX 78028



Christopher B. Gilbert

EXHIBIT 4

HCDistrictclerk.comKAY, WILLIAM F (SR) vs. CY-FAIR INDEPENDENT
SCHOOL DISTRICT

2/12/2018

Cause: 201742311 CDI: 7 Court: 215

APPEALS

No Appeals found.

COST STATMENTS

No Cost Statments found.

TRANSFERS

No Transfers found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

SUMMARY**CASE DETAILS**

File Date	6/26/2017
Case (Cause) Location	Civil Intake 1st Floor
Case (Cause) Status	Active - Civil
Case (Cause) Type	DISCRIMINATION
Next/Last Setting Date	N/A
Jury Fee Paid Date	N/A

CURRENT PRESIDING JUDGE

Court	215 th
Address	201 CAROLINE (Floor: 13) HOUSTON, TX 77002 Phone:7133686330
JudgeName	ELAINE H PALMER
Court Type	Civil

POST TRIAL WRITS

Description	Requested	Assigned	Issued	Returned
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ACTIVE PARTIES

Name	Type	Post Jdgm	Attorney
KAY, WILLIAM F (SR)	PLAINTIFF - CIVIL		EPPERSON, WOODROW JR.
CY-FAIR INDEPENDENT SCHOOL DISTRICT	DEFENDANT - CIVIL		
CY-FAIR INDEPENDENT SCHOOL DISTRICT BY SERVING THE SUPERINTENDENT	REGISTERED AGENT		

INACTIVE PARTIES

No inactive parties found.

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs	Volume /Page	Filing Attorney	Person Filing
6/26/2017	ORIGINAL PETITION			0		EPPERSON, WOODROW JR.	KAY, WILLIAM F (SR)

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION SERVICE RETURN/EXECUTED	ORIGINAL PETITION	CY-FAIR INDEPENDENT SCHOOL DISTRICT BY SERVING THE SUPERINTENDENT		1/11/2018	1/18/2018	1/23/2018			73452863	CIV AGCY- CIVILIAN SERVICE AGENCY

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
78327983	Citation and Return of Service(Executed)		01/26/2018	3
78214596	Civil Process Pick-Up Form		01/18/2018	1
78138196	Civil Process Request		01/11/2018	2
75666645	Plaintiff's Original Petition		06/26/2017	5
-> 75666646	Civil Case Information Sheet		06/26/2017	1

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

WILLIAM E. KAY, SR.

Plaintiff,

V.

CYPRESS-FAIRBANKS
INDEPENDENT SCHOOL DISTRICT

Defendant.

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Civil Action No. _____

PARTIES AND COUNSEL

Plaintiff, William E. Kay Sr.

Woodrow Epperson
jepper1068@aol.com
LAW OFFICE OF WOODROW EPPERSON
336 Rim Rock Road
Kerrville, Texas 78028
Telephone: (713) 973-6303
Facsimile: (830) 895-3882

Attorney for Plaintiff

Defendant, Cypress-Fairbanks Independent School District

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Attorneys for Defendant